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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,550	02/12/2004	Troy Fischer	MAR84 010	5763

7590 09/30/2004

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EXAMINER

MILLER, BENA B

ART UNIT PAPER NUMBER

3712

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/777,550

Applicant(s)

FISCHER, TROY

Examiner

Bena Miller

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 04/23/04
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, lines 5-8 are confusing.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 7, 8, 10, 13, 14, 16, 19, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Dahl.

Regarding claims 1, 7, 13 and 19, Dahl teaches in the figures a figure having an arm attachment portion (fig. 1, the person shown), at least two figure transport unit and a base (see marked copy fig. 1) and a body and arm movable between a first position and a second position (20,30; see marked copy fig. 1).

Regarding claims 2, 8, 14 and 20, Dahl further teaches the units move between the first position and second position in an arcuate path (fig.1).

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Regarding claims 4, 10, 16, 22, Dahl further teaches an additional component (31, 33).

Claims 1-3, 7-10, 13-16 and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kucher.

Regarding claims 1, 7, 13 and 19, Dahl teaches in the figures a figure having an arm attachment portion (41,42), at least two figure transport unit and a base (13 and 12) and a body and arm movable between a first position and a second position ( fig. 1).

Regarding claims 2, 8, 14 and 20, Dahl further teaches the units move between the first position and second position in an arcuate path (fig.1).

Regarding claims 3, 9, 15 and 21 Dahl further teaches a spring bias (37).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 6, 11, 12, 17, 18, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kucher in view of Young.

Kucher teaches in the figures most of the elements of the claimed invention, except for the arm attachment portion of the figure and the figure attachment portion of the units are magnet. Young teaches in the figures a magnetic toy trapeze having a trapeze artist (79) and a trapeze rungs (col. 3, par. 2) formed of a magnetic material. It would have been obvious to one having ordinary skill in the art at the time the invention

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was made to make the arm attachment portion of the figure and figure attachment portion of the unit of Kucher magnet as taught by Young for the purpose of providing a more secure fit when attaching the arm portion to the unit.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis, Clark, Beach, Rosenberger, Reach.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Bena Miller  
Examiner  
Art Unit 3712

bbm  
September 24, 2004

Sept. 25, 1934.

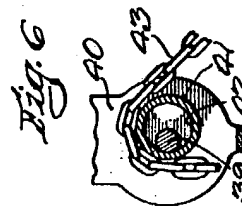
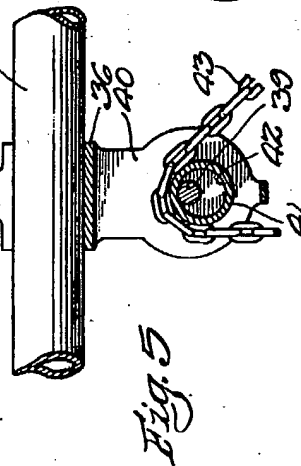
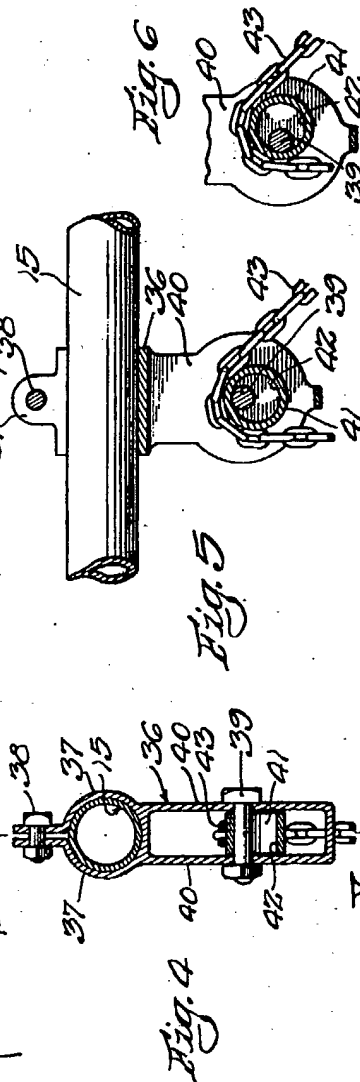
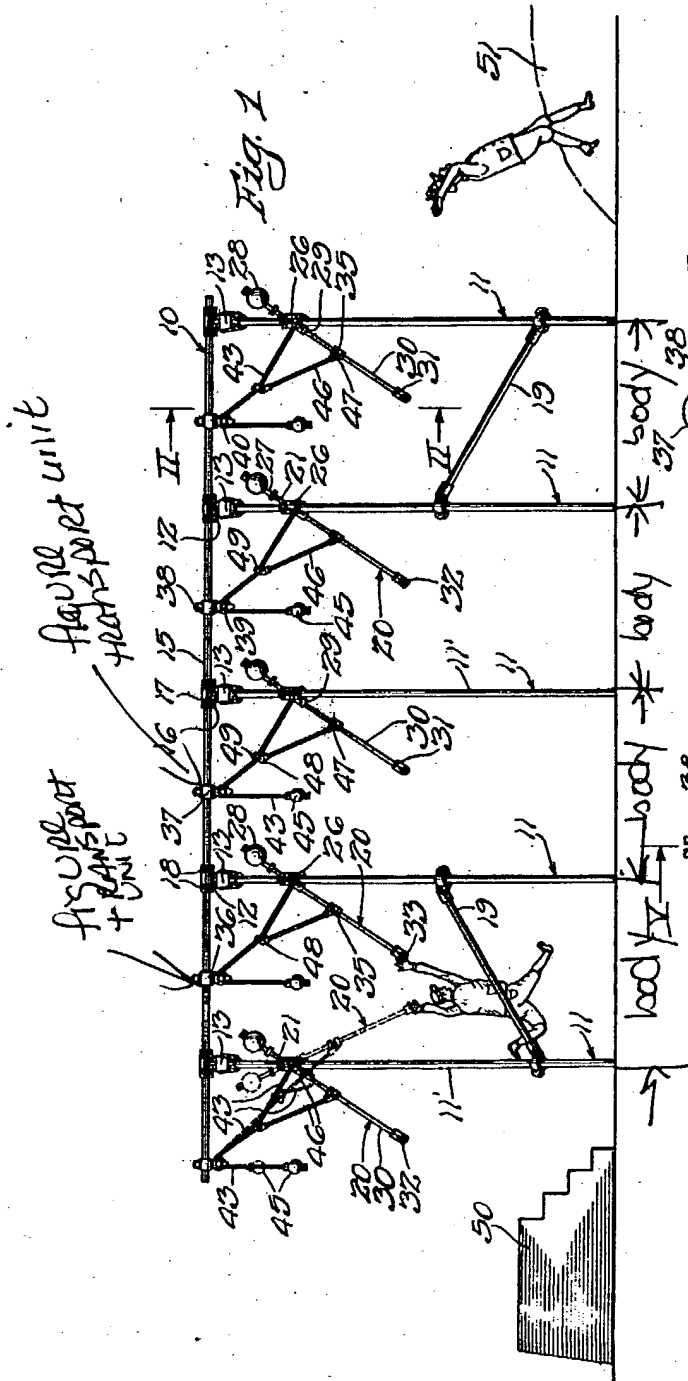
C. DAHL

1,974,531

AMUSEMENT AND EXERCISING DEVICE

Filed Dec. 26, 1929

2 Sheets-Sheet 1



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Conrad Dahl

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Attorney